



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/681,347	03/22/2001	Abdel Kader Elgabry	GEMS8081.071	5268
27061	7590	03/24/2006	EXAMINER	
ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)			WEISBERGER, RICHARD C	
14135 NORTH CEDARBURG ROAD			ART UNIT	
MEQUON, WI 53097			PAPER NUMBER	
			3624	
DATE MAILED: 03/24/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-9, drawn to a method to assess the impact of future changes, classified in class 705, subclass 36.
 - II. Claims 10-15, drawn to a method to address foreseeable change, classified in class 705, subclass 36.
 - III. Claims 16-23 are, drawn to a computer program to determine an effect of a foreseeable event on a present design, classified in class 705, subclass 36

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are directed to related methods. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, The method of group 1 has different effect: For example, it can be used for identifying a number of impacting change factors of the period of criticality as well as determining a risk assessment value for each of the number of impacting change factors.
3. Inventions I and III are directed to related methods and programs. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are

Art Unit: 3624

mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, the invention of group I has a different effect: For example, it can be used for identifying a number of impacting change factors of the period of criticality as well as determining a risk assessment value for each of the number of impacting change factors.

4. Inventions II and III are directed to related methods and computer programs. The related inventions are distinct if the inventions as claimed do not overlap in scope, i.e., are mutually exclusive; the inventions as claimed are not obvious variants; and the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 806.05(j). In the instant case, the invention of group III has a different effect: For example, the program can determine the probability factor for each foreseeable event.

5. Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

6. This application contains claims directed to the following patentably distinct species: (1) periodically evaluating the risk assessment value for each of the number of impacting change factors, (2) developing an action plan configured to either one of

Art Unit: 3624

minimizing or eliminating an effect of an impacting change factor. The species are distinct because each has a separate effect.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 1 is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

7. Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not

Art Unit: 3624

distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richard C Weisberger whose telephone number is 571 272 6753. The examiner can normally be reached on Maxifiles.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vince Millin can be reached on 571 272 6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Richard C Weisberger

Application/Control Number: 09/681,347
Art Unit: 3624

Page 6

A handwritten signature, possibly reading 'W. N.', is enclosed within a hand-drawn circle.

Primary Examiner
Art Unit 3624